



## CLOSED CASE SUMMARY

ISSUED DATE: JULY 13, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0027

### **Allegations of Misconduct & Director's Findings**

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force	Not Sustained - Inconclusive
# 2	15.180, Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.	Not Sustained - Inconclusive

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

The Complainant—an SPD lieutenant—alleged that the Named Employee (NE) escalated an encounter with Community Member #1 (CM#1) and inadequately documented a primary investigation.

### **ADMINISTRATIVE NOTE:**

During OPA's intake investigation, it was noticed that Witness Employee #1 (WE#1) reviewed body-worn videos (BWV) related to this case but failed to make an entry as required under 16.090-POL-2. That issue was forwarded to WE#1's chain of command for supervisor action.

On May 26, 2023, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

This case was also approved for Expedited Investigation. That means OPA, with OIG's agreement, believed it could reach and issue recommended findings based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

### **SUMMARY OF INVESTIGATION:**

Several officers responded to a shooting involving three victims. NE and other officers moved a large gathering of onlookers away from the crime scene. CM#1 slowly retreated and asked NE about retrieving CM#1's wife's coat from the crime scene.

WE#1 wrote the related incident report. WE#1 described CM#1 as intoxicated. WE#1 stated that CM#1 initially complied with orders to retreat, but he returned and had a physical altercation with bar staff near the incident



location. WE#1 noted that BWV showed CM#1 swing his right arm into the bar's entrance "in a backhand motion." Community Member #2 (CM#2)—presumably CM#1 wife—approached CM#1 and said her jacket was inside the bar. CM#1 conferred with bar staff, who located CM#1's jacket but not CM#2's. CM#1 asked WE#1 to find CM#2's jacket, but WE#1 told him he "was looking for shell casings." WE#1 wrote that CM#1 and CM#2 argued with him, so WE#1 disengaged with them. WE#1 also noted that he saw CM#1 "lower his body, fully extend his arms, and forcefully push [NE] near his chest and arms." NE grabbed CM#1 for handcuffing. CM#1 was arrested for obstruction. He was identified, given a business card, and released at the scene.

NE's statement also described CM#1 as intoxicated, with watery eyes, poor balance, and slurred words. He also described CM#1 as much taller and larger than himself. NE wrote that CM#1 approached him requesting help retrieving CM#2's property. NE explained he was busy securing the scene, but CM#1 demanded assistance. NE noted that the scene was still chaotic. NE wrote that CM#1 stood within a foot of him, leaned towards him, and belligerently demanded that NE take CM#1's phone number to contact him later about CM#2's jacket. NE stated that he pushed CM#1 to create space.



CM#1 responded by slapping NE's hands, stepping toward NE, grabbing NE's forearms, and pushing NE.



BWV was somewhat inconsistent with NE's account. NE claimed that when CM#1 demanded that he take down his number, NE replied, "Sure, I can take it down, that's totally fine." However, BWV did not capture that comment. Similarly, NE claimed that CM#1 demanded he write down his number "right now," and NE "explained that I can't do



that right now. I have a job. We need to move to the end of the block, and I will take it then.” However, BWV did not capture NE offering that explanation. Moreover, NE described the scene as too chaotic to utilize further de-escalation with CM#1, but BWV showed the crowd generally complying with police orders to move.

Below are some of the training NE completed covering de-escalation tactics:

2022

- SPD – 1 Day Patrol Tactics.
- SPD – 2022 Virtual Classroom.
- SPD – 2022 Crisis Response involving weapons.

2021

- SPD – 2021 ABLE
- SPD – 2021 Crowd Management, Intervention and Control.
- SPD – 2021 Patrol Tactics.
- SPD- 2021 Response to Edged Weapons eLearning.
- SPD – 30 to 30. 8-hour virtual day
- SPD – 2021 DT and HB131- Legal Updates.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

***8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force***

“When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics to reduce the need for force.” SPD Policy 8.100-POL-1. Officers are also encouraged to use team approaches to consider whether any officer has successfully established rapport with the subject. *Id.* The selection of de-escalation options is guided by the “totality of the circumstances.” The policy emphasizes communication, time, distance, and shielding to minimize the need for force. *Id.*

Here, the Complainant noted that NE “made no attempt to gain compliance with either an order or warning before resorting to a shove,” causing “an already chaotic triple shooting scene to get even worse.” Conversely, NE said CM#1’s intoxicated state, proximity, size, and angry demeanor threatened him. NE also noted CM#1 waving his arms as threatening, but BWV showed only CM#1 waving his arms to point at the bar where CM#2’s jacket was last seen. Overall, although BWV indicated that NE hyperbolized CM#1’s demeanor, OPA cannot conclude that NE was not threatened by CM#1. Moreover, CM#1 ignored commands from several officers, and NE used minimal force to disengage with CM#1 and continue his lawful purpose.

Accordingly, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**



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**Named Employee #1 - Allegation #2**

***15.180, Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.***

Officers must document all primary investigations in a report. SPD Policy 15.180-POL-5. All reports must be complete, thorough, and accurate. See SPD Policy 15.180-POL-5.

Here, as required, NE completed a statement for his encounter with CM#1. However, where policy requires reports to be complete and accurate, OPA found several of NE's claims inconsistent with BWV. Nevertheless, there is insufficient evidence to establish whether NE misperceived what occurred due to the chaotic scene or deliberately embellished.

Accordingly, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**